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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,291	01/14/2004	Theodore David Wugoski	P1375US01/210572	4507
24333	7590	11/13/2007		
GATEWAY, INC. ATTN: Patent Attorney 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			EXAMINER MUHEBBULLAH, SAJEDA	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 11/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/757,291	Applicant(s) WUGOSKI, THEODORE DAVID	
	Examiner Sajeda Muhebbullah	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to Amendment filed 08/23/2007.
2. Claims 28-51 are pending in this application. Claims 49-51 are new. This action is made Non Final.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster (US 6,211,870) in view of Humpleman et al. ("Humpleman", US 6,243,707).

As per claim 28, Foster teaches a method of creating a macro for a convergence system, the convergence system having multiple components, at least one remote control, and at least one user interface other than the remote control (col.4, lines 24-25), the macro comprising multiple commands for operating at least one of the components of the convergence system (col.3, lines 19-20), said method comprising:

identifying at least one remote control command for execution in a desired sequence (col.10, lines 65-67, col.11, lines 1-14); and

assigning the sequence to at least one macro element of the system (col.11, lines 9-14).

However, Foster does not teach the identifying and assigning user interface commands to the macro element. Humpleman teaches a method of creating a macro in a convergence system wherein the macro consists of user commands (Humpleman, col.22, lines 7-12). It would have been obvious to one of ordinary skill at the time of the invention to include Humpleman's teaching with Foster's method in order to provide more flexibility and options in the creation of shortcuts.

As per claim 29, Foster teaches the method, wherein the step of assigning the sequence further comprises assigning the sequence to at least one macro element selected from the group consisting of soft keys and hard keys (col.12, lines 6-11).

As per claim 30, Foster teaches the method, wherein the step of identifying the commands comprises the step of generating the sequence of commands by operation of the user interface (col.11, lines 1-14).

As per claim 31, Foster teaches the method, wherein the step of identifying the commands comprises the step of operating a component of the system by performing a corresponding command and detecting the command associated with such operation (col.12, lines 1-11).

As per claim 32, Foster teaches the method, wherein the convergence system includes the components of a TV tuner, a media player/recorder, and a computer, and wherein the step of identifying the commands includes selecting commands associated with any one of said components and assigning them to a macro element on either the remote control or the user interface (Fig.3; col.11, lines 9-14, lines 36-39).

As per claim 33, Foster teaches the step of identifying the commands comprises monitoring user operations of the components of the system to determine at least one sequence of commands associated with such operations (col.8, line 40 to col.9, line 45).

As per claim 34, Foster teaches the method wherein the assigning step includes prompting a user to assign the sequence of commands determined by the monitoring step to the macro element (col.9, lines 46-65; Fig.7).

Claims 35-39 are similar in scope to claims 28-32, and are therefore rejected under similar rationale.

Claims 40-41 are similar in scope to claims 33-34, and are therefore rejected under similar rationale.

Claims 42-43 are similar in scope to claims 28-29, and are therefore rejected under similar rationale.

Claim 44 is similar in scope to claim 32, and is therefore rejected under similar rationale.

Claims 45-48 are similar in scope to claims 28-31, and are therefore rejected under similar rationale.

As per claim 49, Humpleman teaches the method wherein said at least on user interface command comprises a command for said computer (Humpleman, col.22, lines 7-12).

Claims 50-51 are similar in scope to claims 49, and are therefore rejected under similar rationale.

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Response to Arguments

5. Applicant's arguments, filed 08/23/2007, with respect to the rejection(s) of claim(s) 28-32, 35-29, and 42-48 under 35 U.S.C. 102 have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Humpleman et al. (U.S.6,243,707).

Communications

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajeda Muhebbullah whose telephone number is **(571) 272-4065**. The examiner can normally be reached on Tuesday/Thursday and alt. Mondays from 8:30 am to 5:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063.

The central fax number for the organization where correspondence for this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sy D Luu/

Primary Examiner, Art Unit 2174

Sajeda Muhebbullah

Patent Examiner

Art Unit 2174

/S. M./